

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
WILL J. SHERARD and)
W.J. SHERARD REALTY)
COMPANY,)
)
Defendants.)

Case No.05-C-0486

ORDER FOR CIVIL CONTEMPT

This matter comes before the Court upon the motion of the United States to hold defendants Will J. Sherard and W.J. Sherard Realty (collectively “Sherard”) in civil contempt of the Court’s May 2007 Order. Based upon the pleadings and submissions filed herein, the Court hereby finds that the defendants have failed to comply with the terms of the August 5, 2005 Consent Decree and the Court’s May 2007 Order to Enforce the Consent Decree. Therefore, the Court hereby **ORDERS** as follows:

1. The Court’s May 2007 Order required each subject property to undergo a lead-based paint hazard risk assessment and submit that risk assessment to the U.S. Department of Housing and Urban (“HUD”) Development by March, 2008. A list of the subject properties is attached as Attachment A and is incorporated herein. As of June 30, 2008, the risk assessor has not submitted risk assessment reports to HUD on the following properties because he has not received payment from Sherard for the inspections:

2643-45 North 4 th Street	3017-17A North 28 th Street
3328 North 26 th Street	3366 North 28 th Street
3434 North 12 th Street	2231 West Capitol
2935-35A North 16 th Street	2106 West Chambers
3445 North 16 th Street	4063-65 North Elmhurst
3956-56A North 15 th Street	2757 North 16 th Street
2625-25A North 17 th Street	1944 North 37 th Street
3522-22A North 19 th Street	3433-33A North Richards
3003 North 21 st Street	1914-16 West Vienna
3391-91A North 20 th Street	2468-70 West Burleigh
2720-22 North 21 st Street	2400-00A West Finn Place
3833-33A North 23 rd Street	3314 West McKinley
3291-91A North 24 th Street	

Therefore, commencing on July 1, 2008, for each subject property on which a risk assessment has not been provided to HUD because the risk assessor has not received payment, the Court hereby orders that Sherard pay a \$500 penalty per day until Sherard has complied with the Court's Order.

2. Paragraph 20 of the Consent Decree provides that the United States may disapprove an abatement contractor proposed by the defendant. Paragraph 8(c) of the Court's May 2007 Order required Sherard make the following reports by November 2, 2007:

1. The name(s) of the person(s) or company(ies) that will perform the window replacement and hazard abatement work and a copy of their valid state certification;

2. The agreements or letters of understanding between Sherard and the contractor(s) to perform the window replacement and hazard abatement work; and
3. A time line which specifies which properties will be subject to hazard abatement and window replacement in each of the years until the work has been completed.

Therefore, commencing on July 1, 2008, for each subject property on which the above reports have not been provided to HUD for approval under Paragraph 20 of the Consent Decree, the Court hereby orders that Sherard pay a \$500 penalty per day until Sherard complies with the Court's Order.


3. Paragraph 5 of the May 2007 Order required Sherard to complete the window replacement work by July 2008 and the hazard abatement work by July 2010. Because it is more economical to complete the hazard abatement and window replacement work at the same time, Sherard shall perform the hazard abatement and window replacement work on each property at the same time and shall have all hazard abatement and window replacement work completed by July 2009. Further, Sherard shall complete the hazard abatement and window replacement work first on the properties in which children currently reside and in accordance with the schedule set forth in Attachment B to this Order. For each subject property on which the window replacement or hazard abatement has not been completed in accordance with the schedule set forth on Attachment B, the Court hereby orders that Sherard shall pay a \$500 penalty per day until the work has been completed.

4. The schedule for the hazard abatement and window replacement work that is attached as Attachment B to this Order includes work during months where certain abatement work may be impossible to complete due to the weather. As a result, for any property that is scheduled to be abated and to have the windows replaced during a month in which the weather prohibits doing work, Sherard will obtain a proposal for the work from the designated abatement and window replacement contractor. Once the proposal for the work has been approved by the United States, Sherard shall place the amount of money estimated for the work in an escrow account. The abatement and window replacement contractor shall perform the designated work on any property for which funds have been escrowed due to weather conditions as soon as weather permits.
5. If the United States contends that Sherard has violated the terms of this Order, it will petition the Court for the imposition of penalties and a judgment against Sherard in the amount of those penalties.
6. A lis pendens, which includes a copy of this Order, will be filed by the United States against all properties listed on Attachment A as one means to enforce collection of any penalties imposed pursuant to this Order.

IT IS SO ORDERED.

Dated at Milwaukee, Wisconsin, this 3rd day of July, 2008.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge